

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

May 1, 2012

In the Matter of SCHLIEP/GEORGE, Minors.

No. 306476

Saginaw Circuit Court

Family Division

LC No. 10-032536-NA

Before: MARKEY, P.J., and MURRAY and SHAPIRO, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to her children under MCL 712A.19b(3)(c)(i), (g), and (j).¹ We affirm.

¹ The relevant statutory grounds for termination of parental rights read:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

* * *

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

Before terminating a respondent's parental rights, the trial court must make a finding that at least one of the statutory grounds under MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). Only one statutory ground need be established by clear and convincing evidence to terminate a respondent's parental rights, even if the court erred in finding sufficient evidence under other statutory grounds. *In re Huisman*, 230 Mich App 372, 384-385; 584 NW2d 349 (1998). The trial court must order termination of parental rights if it also finds that termination is in the child's best interests. MCL 712A.19b(5). This Court reviews the trial court's decision for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009); MCR 3.977(K). To warrant reversal, the trial court's decision must be more than maybe or probably wrong. *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009).

The trial court did not clearly err in finding the statutory grounds supported by sufficient evidence. The condition that led to petitioner's intervention was respondent's failure to protect her three children from a physically abusive boyfriend and her poor parenting. Respondent admitted in her plea that her then live-in boyfriend, Lopez, had physically disciplined all three children by hitting them with a belt and a garden hose and had disciplined her sons by forcing them to touch an electric fence. The trial court repeatedly advised, and respondent acknowledged, that she needed to stay away from men who abused her children, specifically Lopez, if she desired to regain custody of her children. The trial court ordered respondent to participate in and benefit from a treatment plan, which included (1) learning appropriate parenting techniques; (2) providing a safe environment for her children; (3) refraining from unhealthy and dangerous relationships; (4) obtaining and maintaining emotional stability; and (5) obtaining employment, housing, and financial stability to meet her family's basic needs. Petitioner provided respondent with family reunification services to help her extricate herself from domestically violent relationships and correct her parenting deficits. Services included parenting time, food assistance, gas cards for transportation, case management services, psychological evaluation, individual counseling, and domestic violence education. Despite over a year of services and the court's repeated warnings, the trial court found that respondent remained enmeshed with Lopez and his family.

Respondent argues that there was no evidence to refute her assertion that she had no involvement with Lopez for nine months before the termination hearing. We disagree. Respondent insisted that she disassociated herself from Lopez and his family shortly after the children were removed. However, there was evidence that this was not true and that respondent attempted to deceive the court, petitioner, her therapist, and her family regarding her continued involvement with Lopez. Respondent concocted a false lease and elicited the help of a third person to pose as her putative landlord in an attempt to hide the fact that she and Lopez rented a house together in January 2011. In March 2011, Lopez's name was removed from the lease only

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

when petitioner discovered that he was a named lessee. Respondent had access to Lopez's "stuff" stored at her house for months after she had supposedly broken off the relationship. At the time of the termination hearing, she was still driving the Jeep owned by Lopez's mother, who also paid the auto insurance. The trial court also found that Lopez picked respondent up from the hospital in January 2011. The trial court concluded that respondent's testimony lacked credibility and was riddled with inconsistencies and that respondent had continued contact with Lopez and his family. Though there was only direct evidence of one instance of contact between Lopez and respondent, there was sufficient circumstantial evidence to support the trial court's finding.

Respondent further asserts that termination was entirely premised on the belief that respondent would have future contact with Lopez. This argument ignores the extensive court record. Even if the court had not found that respondent continued her relationship with Lopez, she failed to take the other necessary steps to be reunified with her children. It was undisputed that respondent had an open door to visit with her children, who were placed with her family members, but she did not do so regularly. From January through March 2011, respondent's visits with her children were "few and far between" according to her sons' foster parent, who was respondent's sister. Also, respondent did not see her children from May 26 through August 6, 2011, claiming that she was looking for a place to live and a job, yet the proofs clearly showed that respondent had been employed part time since March 2011 and had secured housing in January 2011. She also blamed the lack of money for gas as a reason for not seeing her children. However, there was ample evidence that respondent was provided with gas cards and offered other transportation assistance from petitioner and the relative foster parents to facilitate visits with the children. The trial court reasonably determined that respondent's work and finances did not pose barriers to her visiting with her children.

Respondent contends that she could properly care for children. She contends that she participated in and benefited from reunification services. Respondent argues that, at the time of the termination hearing, she had an adequate house, was employed, and was financially independent. Although respondent had housing and was employed, her claim of financial independence is suspect. She admittedly was relying on Lopez's mother for a car and auto insurance. Also, there was evidence, despite respondent's denials, that Lopez had paid her rent in January and February 2011. Further, the trial court did not clearly err in finding that respondent did not sufficiently benefit from reunification services. Respondent attended more than a year of individual therapy, but the therapist challenged respondent's honesty and level of engagement in the therapy process. Respondent told her therapist that she needed to discontinue therapy because of her work schedule when in fact she was, for the most part, working part time. Moreover, the therapist testified that he did not know that Lopez's name was on the lease for respondent's home. The therapist stated that this fact would have impacted respondent's therapy. The trial court did not clearly err in concluding that respondent was merely giving an appearance of complying with individual therapy.

The trial court also reasonably concluded that the children would be harmed if returned to respondent's care and that it was in their best interests to terminate respondent's parental rights. Respondent argues she was bonded with her children and that she had become a stronger and better parent and was able to protect her children from future harm. However, there was sufficient evidence to support the court's conclusion that respondent's bond with the children did

not overcome her inability to provide them with a safe home. As described above, there was evidence that respondent continued to associate with Lopez and did not frequently visit her children. Respondent's therapist opined that respondent had a history of, and strong propensity for, dependence on abusive men. Respondent previously admitted that Lopez had abused all three of her children more than once and heard her 11-year-old daughter testify at the termination hearing that Lopez had struck her with a garden hose. Nevertheless, respondent testified in turn that her daughter was lying and insisted that the daughter had not been physically abused, testimony that the trial court found not credible. Despite more than a year of individual therapy and domestic violence education, respondent was unable to acknowledge the fact that her daughter had been abused by Lopez.

Moreover, she minimized Lopez's abuse of the other two children, claiming that he had struck only her older son and that it was an isolated event. Respondent's denials demonstrated that she could not be trusted to protect the children. At the time of the termination hearing, respondent lacked insight into the reasons that the children were removed from her care. She was untruthful with her therapist, her family, petitioner, and the trial court. The trial court did not clearly err in assessing respondent's credibility and reasonably concluded that respondent's lack of insight, poor judgment, and lack of candor would continue to place the children in harm's way.

Affirmed.

/s/ Jane E. Markey
/s/ Christopher M. Murray
/s/ Douglas B. Shapiro